

2013 IACC Conference

Understanding Rural Development Funding Process

David Dunnell – State Engineer
Rick Rose – Community Programs Loan Specialist



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Slide 1 of 46

Topic / Context

- Agency (RD) Overview
- Application Processes
- Loan Preparation / LOC Phase
- Plans & Specs Development
- Bidding Process
- Awarding Process & Pre-Construction
- Construction
- Post Construction Loan Servicing



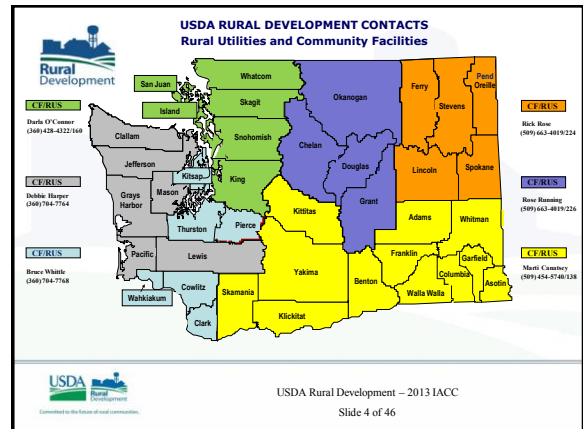
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Slide 2 of 46

Agency (RD) Overview

- Community Program Staffing – Olympia Office
 - Peter McMillin - Program Director
 - Eugene Dobry - State Loan Specialist
 - Janice Roderick - State Environmental Coordinator
 - David Dunnell - State Engineer (Wenatchee)
 - Agnieszka Kiska - State Architect
 - Greg York - State Technician
 - Six Area Loan Specialist
 - See district map



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Slide 3 of 46



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Slide 4 of 46

Agency (RD) Overview

- Supervised Lending
- Much more than a Bank – How we are different!
- Manage the Lending Process
 - Determine Eligibility (applicant, project, funding strategy)
 - Advocate and advisor to applicant @ no cost
 - Experienced Support Team: Engineer, Architect, Environmental and Loan Specialists, Technical contractors (RCAC, ERWoW)
 - Minimize Financial Risk: Modest/Affordable Projects, Comprehensive Underwriting, System Sustainability Result: successful projects that improve quality of life and increase economic opportunity in rural America
 - Long Term Relationship w/ life of loan support



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Slide 5 of 46

Agency (RD) Overview

- Loan Specialist - “Roles and Responsibilities”
- Loan and Grant Processing (Manage Process)
 - Work closely and cooperatively w/applicant, their representatives, other agencies and RD State Office personnel toward processing a complete application
 - Review security instruments
 - Loan approval
 - Pay requests, interim financing – EFT disbursement
 - Inspections, security and compliance reviews
 - Project close out/ loan closing
 - Servicing, payment collection and annual reports



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Slide 6 of 46

Agency (RD) Overview

- Loan Specialist - “Roles and Responsibilities”
 - Reviews and Originates Complete Application
 - Financial Analysis, Underwriting, Loan/Grant Determination
 - Coordinates w/ RD Engineer & Environmental Specialist, PER & ER
 - Submits recommendation to Program Director and State Loan Specialist for approval
 - Presents Funding Offer to applicant



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Slide 7 of 46

Agency (RD) Overview

- State Engineer – “Roles and Responsibilities”
 - Addresses Engineering Related Phases
 - Preliminary Engineering Reports (PER) or equivalent
 - Engineering Agreement
 - Plans and Specification
 - Bid awards
 - Pre Construction Conference
 - Executed Construction Contract Documents
 - RD Funds Released
 - Construction Management and change orders
 - Final Inspection and Close out of contract



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Slide 8 of 46

Application Process Elements of Application Package

- Key Elements of a complete Application Package
 - SF-424 Application Form and supporting documentation
 - Financial Statements; Audits; Operating Budget
 - Test for other credit
 - Public announcement with meeting minutes
 - Preliminary Engineering Report (PER)
 - Environmental Report (ER)



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Slide 9 of 46

Application Process Elements of Application Package

- Automated Underwriting
 - Need accurate EDU information (at start-up)
 - Considers all Income Sources
 - Operations and Maintenance Expenses (at start-up)
 - Replacement Reserves – Short Lived Assets
 - Debt Service and Reserves
 - Determines Amount for new loan payment and max loan based off of similar systems and sustainability
 - Project funding: cost, applicant contribution, other funding sources, and new connection fees
 - Final calculations then determine grant needed



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Slide 10 of 46

Application Process Elements of Application Package

- Environmental Report (ER) & NEPA
 - RUS Bulletin 1794A-602 Guide
 - Preparation of the Environmental Report (ER) for Water and Environmental Program Proposals
 - Natural Resource Guide at RD WA State Website
 - Janice Roderick - (SEC) State Environmental Coordinator - review and approval



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Slide 11 of 46

Application Process Elements of Application Package

- Preliminary Engineering Report (PER)
 - Instructions provided by RUS Bulletin 1780-2
 - Used for Water, Sewer, Storm and Solid Waste Facilities
 - Interagency Template: Accepted by USDA, EPA, HUD, IHS and 16 State Agencies on January 16, 2013
 - Pending partnership with Washington State partners, DOE, DOH, PWTF, CDBG-HUD
 - Establishes the Scope of Work, Costs, Design Parameters, and other important data
 - Submitted with Funding Application



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Slide 12 of 46

Application Process Elements of Application Package

- Preliminary Engineering Report (PER) Content - RUS Bulletin 1780-2
 1. General
 2. Purpose
 3. How to Use the Interagency Template
- General Outline of a PER
 1. Project Planning Area
 2. Existing Facilities
 3. Need for Project
 4. Alternatives Considered
 5. Selection of an alternative
 6. Proposed Project (Recommended Alternative)
 7. Conclusions and Recommendation



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Slide 13 of 46

Application Process Elements of Application Package

- PER Alternative
 - Amend State DOH / DOE equivalents reports
 - WA State PER Guide with Key Emphasis
 1. Number of System Connections at Start-up
 2. System Flows at Start-up
 3. List of Short Lived Assets (SLA)
 4. Updated Budget Estimate
 5. Updated O&M Budget Estimate



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Slide 14 of 46

Application Process Elements of Application Package

WA State PER Guide with Key Emphasis

1. Number of System Connections and flows at Start-up
(The estimated number of connections and flows must reflect all those who will be responsible for debit repayment once the new system goes on line.)
 - Residential users
 - Non-residential users
 - Any large non-residential user
 - Typical daily flow per Residential Unit
- Tabulate monthly average flows for most recent year. If no or poor records (no meters), then estimates using DOE/DOH approved methods (DOH Water System Design Manual etc.)



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Slide 15 of 46

Application Process Elements of Application Package

WA State PER Guide with Key Emphasis

2. List of Short Lived Assets (SLA)
 - Assets with estimates life spans of 5, 10, and 15 years
 - Current replacement cost estimate, w/o inflation etc.
 - Annual O&M items not applicable
- (The intent is to establish a reserve account dedicated to the replacement of key assets over the life of the loan.)



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Slide 16 of 46

USDA RURAL DEVELOPMENT
ESTIMATED SCHEDULE OF SHORT-LIVED ASSETS

Project	Initial date	1/1/2001	1/1/2001	1/1/2001	1/1/2001	1/1/2001	1/1/2001
	quantities	unit price	total	quantities	unit price	total	quantities
Chelan-Town of Bend City							
System Owner System Assets							
Item 1 - Chelan St. Water Pump Replacement	1	\$ 40,000	\$ 40,000	0	\$ -	\$ -	0
Item 2 - Chelan St. Water Pump Replacement	1	\$ 40,000	\$ 40,000	0	\$ -	\$ -	0
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By David Cornwall
USDA RD State Engineer

Short live assets example
1st edition January 10, 2005

Application Process Elements of Application Package

WA State PER Guide with Key Emphasis

3. Updated Project Budget and O&M Estimate
 - Budget matches the application
 - Update if over a year old (PER print date)
 - Recommended Categories:
 - Construction by Phase / Schedule w/tax
 - Engineering fees
 - Land and Rights-of-Ways
 - Applicant's Administration & Legal
 - Interim Financing
 - Bond Counsel
 - Project contingency
 - Updated O&M budget at start up with projected inflation estimates



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Slide 18 of 46

Application Process Elements of Application Package

- PER WEAKNESSES (Reviewer perspective)
 - Consideration/Evaluation of Alternatives
 - Present worth analysis
 - Material Selection (open and free competition)
 - Outdated construction cost and O&M estimates
 - Missing short lived asset reserve analysis
 - Missing interim financing (bank interest on loan) and bond Council costs (contact Loan Specialist for assistance)
 - Best case grant assumptions used (include loan only)
 - Under priced EDU rates – unrealistic similar systems rates
 - Residential subsidizing commercial
 - High per capita consumption rates



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Slide 19 of 46

Underwriting	
Loan Determination	
Monthly Cost Per EDU	\$0.00
Number of EDUs	0
Bulk Cost/ 1,000 Gal or Cu Ft	\$0.00
Bulk User Income Per Month	\$0
Other Operating Income (Monthly)	\$0
Operating Income (Annual)	\$0
Non-Operating Income (Annual)	\$0
Total Cash Available (Annual)	\$0
Debt (Less Interest & Depreciation) (Annual)	\$0
Replacement Reserve - Short Lived Assets	\$0
Other Annual Expenses	\$0
Debt Service & Reserve	\$0
Total Cash Outflow (Annual)	\$0
Balance Available For New Loan Payment	\$0
Commercial Credit (Maximum Loan Amount)	\$0
USDA (Maximum Loan Amount)	\$0
Project Funding Breakdown	
Project Cost	\$120,000
Applicant Contribution	\$0
Other Funding Sources	\$120,000
Contribution Construction/Tag Fees	\$0
USDA (Maximum Loan Amount)	\$0
Total USDA Grant Needed	\$0
Maximum WWP Grant Amount	\$0

Loan Preparation Letter of Conditions

- Key elements of LOC
 - Project Account: Budget and Funding Sources
 - Security for loan and repayment terms
 - Grant Agreement if applicable
 - Reserves: Debt Service and Short Lived Assets
 - Interim financing requirements
 - Proposed Operating Budget and Rate Analysis
 - Environmental Mitigation Measures
 - Agreement for Services; Legal, engineering, etc.
 - Construction contract document requirements, ROW
 - Loan closing and servicing requirements



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Slide 21 of 46

Loan Preparation Letter of Conditions

- Applicant reviews LOC offer
 - Applicant accepts offer
 - Signs “Letter of Intent” to meet conditions (not a security instrument, only obligating funds)
- Applicant implements instructions in LOC
 - Authorizes Engineer to proceed with design and construction using Agency Endorsed construction contracting documents



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Slide 22 of 46

Plans & Specs Development Agency Endorsed Contract Document Requirements

- Construction Contract Document
 - Applicant required to use agency endorsed documents and forms when developing construction documents for public works improvements to be funded in full or in part with agency funds



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Slide 23 of 46

Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements



- EJCDC E-500 (2008 edition)
- Agreement Between Owner and Engineer
- Purchase from Sponsoring Organizations
 - ACEC, NSPE, ASCE, AGCA
- Funding Agency Edition E-510 (1997 - 02 edition) discontinued



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Slide 24 of 46

Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements

- Agreement Between Owner and Engineer **Funding Agency Edition**
 - Exhibit A – Engineering Services
 - Exhibit B – Owner's Responsibilities
 - Exhibit C – Payments to Engineer and Reimbursable Expenses (Replace with Attachment C of RUS Bulletin 1780-26)
 - Exhibit D – Resident Project Representative Duties
 - Exhibit E – Notice of Acceptability of Work (optional)
 - Exhibit F – Construction Costs Limits (optional)
 - Exhibit G – Insurance
 - Exhibit H – Dispute Resolution (optional)
 - Exhibit I – Limitations on Liability (new) (remove per Funding Agency)
 - Exhibit J – Special Provisions (optional)
 - Exhibit K – Amendment to Owner – Engineer Agreement



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Slide 25 of 46

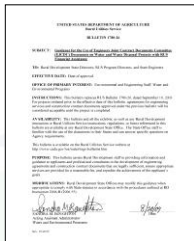
Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements

- Agreement Between Owner and Engineer **Funding Agency Edition**
 - Exhibit A – Engineering Services
 - Basic Services
 - Study and Report Phase (PER, ER, others)
 - Preliminary Design Phase
 - Final Design Phase
 - Bidding or Negotiating Phase
 - Construction Phase
 - Resident Project Representative (RPR)
 - Post-Construction Phase
 - Additional Services



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Slide 26 of 46

Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements



RUS Bulletin 1780-26 (2009 edition)

- Contains Attachments
 - A - Owner – Engineer Agreement Document List
 - B - Bidding & Construction Instructions to Owner
 - C - Modifies E-500 to Funding Agency Clauses
- Substitutes equivalent EJCDC (2008 edition) per Attachment C



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Slide 27 of 46

Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements



- RUS Bulletin 1780-26 Attachment B Funding Agency Clauses
 - 7. Selecting the Contractor(s) shall be open and competitive
 - 9. The Bidding Documents, Contract Forms, and General Conditions will be RUS B1780-26 & EJCDC
 - 11. Bidding Documents must be submitted to RD for review and approval prior to advertisement for bids
 - 14. RD must approve contractor applications for payment
 - 15. Retainage can not be invested for contractor's benefit
 - 19. Bids solicited by Public Advertisement
 - 29. Before a Contract is awarded, Funding Agencies must concur prior to announcement of award. Construction may commence upon, but not before, receipt of a Notice to Proceed
 - 31. Funding Agency must approve all Change Orders
 - Attach A. RUS funding can be used for payment of engineering services only after RUS has occurred in the agreement



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Slide 28 of 46

Plans & Specs Development Construction Documents Agency Endorsed Contract Document Requirements

- Engineers Joint Contract Documents Committee (EJCDC)
 - EJCDC-C-520 Owner – Contractor Agreement (2007 edition)
 - EJCDC-C-700 Standard General Conditions (2007 edition)
 - EJCDC Related Documents and Forms (2007 edition)
 - C-430 – Bid bond
 - C-510 – Notice of Award
 - C-550 – Notice to Proceed
 - C-610 – Performance Bond
 - C-615 – Payment Bond (2010 edition)
 - C-620 – Application for Payments
 - C-941 – Change Order
 - C-625 – Certification of Substantial Completion



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Slide 29 of 46

Plans & Specs Development Construction Documents Agency Endorsed Contract Document Requirements

- Engineers Joint Contract Documents Committee (EJCDC)
 - See Previous slide
- RUS Bulletin 1780-26 (2009 edition)
 - Guidance document for Modifying Standard EJCDC documents to conform to Funding Agency requirements
- Washington State Guides
 - WA Guides, 1, 2, 3 (2009), 4
- Replaces outdated Funding Agency Edition of EJCDC 1997 and 2002 editions

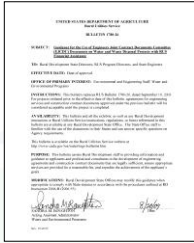


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Slide 30 of 46

Plans & Specs Development

Construction Documents


Agency Endorsed Contract Document Requirements



- RUS Bulletin 1780-26 (2009 edition)

Contains Attachments

- E - Advertisement for Bids (optional)
- F - Instructions to Bidders
- G - Bid Form
- H - Supplementary Conditions
- Substitutes equivalent EJCDC (2007 edition)



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Slide 31 of 46

Plans & Specs Development

Construction Documents

Agency Endorsed Contract Document Requirements

- Washington State Guides to EJCDC Doc's
 - WA Guide 1: Introduction to **Design and Construction Related Documents** on Projects Funded by USDA RD
 - WA Guide 2: Introduction for Developing **Owner-Engineering Agreement** for Projects Funded by USDA RD
 - WA Guide 3: Additional Instructions for the Development of **Design and Construction Related Documents**
 - WA Guide 4: Agency **Authority** Reference Guide and Other Items



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Slide 32 of 46

Plans & Specs Development

Construction Documents

Agency Endorsed Contract Document Requirements

- Key Agency Provisions
 - **Surety:** Performance & Payment bonds, each 100% of contract amount
 - **Change Orders:** Agency review and approval
 - **Payment Applications:** Agency review and approval
 - **Agency Approval of Contracts:** But not a party of



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Slide 33 of 46

Plans & Specs Development

Construction Documents

Agency Endorsed Contract Document Requirements

- Key Agency Provisions (cont)
 - **Retainage:**
 - 5% withheld until substantial completion
 - Can not be placed in escrow nor invested for the benefit of the contractor
 - Takes Precedence over RCW 60.28.011
 - RCW 60.28.010 has been stricken – was nearly a duplicate



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Slide 34 of 46

Plans & Specs Development

Construction Documents

Agency Endorsed Contract Document Requirements

- Key Agency Provisions (cont)
 - **Procurement:**
 - No base bid method (no restrictions on "or-equal" or substitutes during the bidding process)
 - Maximum open and free competition
 - List (was two) brand name with "or-equal" to the extent practical
 - Selection of Major Equipment through Pre-selection bidding process (basis of design)
 - "or-equals" may be evaluated / approved prior to bid opening



USDA Rural Development – 2013 IACC
Slide 35 of 46

Plans & Specs Development

Construction Documents

Agency Endorsed Contract Document Requirements

- Agency Approval of Contract Documents
- State Engineer issues P&S approval letter
- Authorizes Applicant to proceed w/ bidding
- Provides list of Post Bid Submittal Items
 - Items needed by agency in order to concur with the engineers recommendation to award



USDA Rural Development – 2013 IACC
Slide 36 of 46

Bidding Process

- Applicant conducts bidding process
 - RD invited to bid opening and other applicable parties
- Engineer audits bid, makes recommendation to Owner and submits Post Bid Submittal items to RD
- RD reviews Post Bid Submittals
 - DOE / DOH P&S approval letter
 - Rights-of-Ways Forms and Maps
 - Resume of Resident Project Representative
 - Revised OLR with updated construction Cost
 - Bid tabs, low bidders proposal, 400-6, AD 1048, 1940Q, bid bond, Engineer's recommendation
 - Debarment of contractor (SAM) (System for Award Management)
 - Surety against Treasury Circular 570



USDA Rural Development – 2013 IACC
Slide 37 of 46

Bidding Process

- Outlay Report
 - Soft costs
 - Engineering fees
 - Construction costs
 - Contingency
 - Funding sources \$
 - Signature block
 - Financial status



USDA Rural Development – 2013 IACC
Slide 38 of 46

Bidding Process

Prior to Bid Award - LOC conditions (Loan Specialist)

- Rural Development funding must be ready to close prior to Bid Award:
 1. If the RD loan is above \$500,000, then interim financing must be secured. The interim lender will need to provide documentation of applicable rates and terms. The interim loan will be paid off once the equivalent RD loan funds have been exhausted through construction pay requests.
 2. Draft bond documents must be received from the borrower's bond attorney, reviewed by the Office of General Council and approved by RD.
 3. Verification of owner's insurance and bonds
 4. All other applicable requirements per the Letter of Conditions.



USDA Rural Development – 2013 IACC
Slide 39 of 46

Awarding Process

- RD Concurs with the Recommended Award
- Applicant Issues Notice of Award (NOA)
 - Sends Construction Contract EJCDC C-520 & Bonds etc
 - Contractor signs and returns
 - Applicant's Attorney reviews
 - Executes Certificate of Owner's Attorney GC-A
 - Exhibit GC-A of Attachment H RUS Bulletin 1780-26
 - Applicant Enters into Construction Contract



USDA Rural Development – 2013 IACC
Slide 40 of 46

Awarding Process

- RD Concurs with executed contract documents
 - Reviews Executed Owner - Contractor agreement EJCDC C-520
 - Date of Surety on or after date of agreement
 - Surety listed on Treasury Circular 570
 - Contractor Insurance Accord form
 - Owner's Attorney executed "Certificate of Owner's Attorney"
 - Exhibit GC-A, RUS Bulletin 1780-26 Attachment H
 - RD signs Agency Concurrence Block
 - Exhibit GC-A, RUS Bulletin 1780-26 Attachment H
- Release of RD Funds
 - Following RD execution of Exhibit GC-A, RUS Bulletin 1780-26 Attachment H
- Applicant issues Notice to Proceed (NTP)



USDA Rural Development – 2013 IACC
Slide 41 of 46

Construction Phase

- Conducts Pre-Construction Meeting
 - Engineer uses RD format agenda or approved equivalent
 - Engineer facilitates/leads pre-con meeting
 - RD approves executed contract documents (if not earlier)
- Contractor proceeds with construction
 - Engineer & Resident Project Representative perform construction services
 - Applicant monitors construction through engineer
 - RD monitors construction through engineer
 - approves payments
 - approves change orders
 - periodic site visits
 - attends pre-final and final inspections



USDA Rural Development – 2013 IACC
Slide 42 of 46

Construction Phase

- Construction, Completion and Close-out
 - Loan specialist to monitor pay requests, disperse funds and track budgets through outlay reports.
 - Establish Date of Substantial Completion
 - Final inspection, complete punch list items
 - Owner receives As-builts and O&M manual
 - Establish Warranty Inspection date
 - 11 months past SC, Owner, Eng'r, Agency, Contractor
 - All parties accept project
 - Issues final payment and release of retainage
 - Excess funds to be used ASAP or released for de-obligation



USDA Rural Development – 2013 IACC
Slide 43 of 46

Post Construction Loan Servicing

- RD Services Loan
 - Assist w/bank accounts
 - Security inspections & ADA/Civil Rights Compliance review
 - Payment collection, using Pre-Authorized Debit
 - Annual Reports Audit reviews
 - Cash Flow and Sustainability
 - O&M budgets
 - Reserve Balances
 - Loan delinquency
 - Graduation review



USDA Rural Development – 2013 IACC
Slide 44 of 46

Rural Development Web Sites

- Engineering Documents
 - Preliminary Engineering Report
 - Engineering Agreement (examples)
 - Construction Contract Documents (examples)
 - Most RUS Forms & Bulletins
- <http://www.rurdev.usda.gov/UWP-eng-bulletins.html>
- <http://www.usda.gov/rus/water/ees/english/index.htm>



USDA Rural Development – 2013 IACC
Slide 45 of 46

RURAL DEVELOPMENT

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USDA Rural Development – 2013 IACC
Slide 46 of 46